

7 FAM 780

MARITIME DISASTERS AND SEIZURES

(CT:CON-436; 01-29-2013)
(Office of Origin: CA/OCS/L)

7 FAM 781 INTRODUCTION

(CT:CON-113; 10-04-2005)

- a. Statutes, treaty provisions, established usage and jurisdictional cooperation between the Bureau of Consular Affairs (CA) and other bureaus (Bureau of Economic and Business Affairs' Transportation Affairs division (EB/TRA), and other agencies (U.S. Coast Guard, National Transportation Safety Board) govern your role and jurisdiction in maritime disasters or vessel seizures.

See ..

Emergency Planning Handbook, 12 FAH-1 H-000 Background And General Guidance

7 FAM 650 Vehicle, Vessel And Aircraft Seizure And Theft Claims

7 FAM 1800 Consular Crisis Management

7 FAM 155 – Welfare and Whereabouts – Search and Rescue Options

- b. Various international agreements, such as the International Convention on Maritime Search and Rescue, establish common approaches and cooperation for search and rescue and responding to maritime disasters. See Treaties in Force on the Department of State Internet page.

- (1) Article 37 of the Vienna Convention on Consular Relations provides:

Article 37 VCCR

"If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

- (c) if a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence."

- (2) 46 U.S.C. 721 Vessels Stranded on Foreign Coasts provides:

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U.S. Department of State Foreign Affairs Manual Volume 7
Consular Affairs

46 U.S.C. 721 Vessels Stranded on Foreign Coasts

"Consuls and vice consuls, in cases where vessels of the United States are stranded on the coasts of their consulates respectively, shall, as far as the laws of the country will permit, take proper measures, as well for the purpose of saving the vessels, their cargoes and appurtenances, as for storing and securing the effects and merchandise saved, and for taking inventories thereof; and the merchandise and effects saved, with the inventories thereof so taken, shall, after deducting there from the expenses, be delivered to the owners. No consul or vice consul shall have authority to take possession of any such merchandise, or other property, when the master, owner, or consignee thereof is present or capable of taking possession of the same."

(R.S. §4238 derived from act Apr. 14, 1792, ch. 24, §3, 1 Stat. 255.)

- c. Various sections of U.S. embassies and consulates abroad have certain responsibilities related to marine disasters and seizures. The consular section is generally the action office for U.S. shipping and seamen issues and protection of U.S. citizens. A number of functional bureaus and offices in the Department of State also have an interest in marine disaster and seizure issues. In addition, the geographic desks may play a role in specific property cases that have political, economic, or legal implications. Posts should keep the Department advised of relevant property related issues, using appropriate tags and terms in reporting telegrams. See 5 FAH-3 Tags and Terms Handbook.

| TAG | TERM |
|------|--|
| CASC | Assistance to Citizens |
| ASEC | Security |
| AEMR | Emergency Planning and Evacuation |
| EWWT | Waterborne Transportation |
| KIDE | Investment Disputes and Expropriations |

7 FAM 782 MARINE DISASTERS - ROLE OF THE CONSULAR OFFICER

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- a. Report the incident immediately to the Operations Center and follow-up with an immediate cable. You must include:
- (1) Name of vessel, owner of the vessel and home port;
 - (2) Information concerning the safety of the passengers and crew;
 - (3) Names and available biographic data of those rescued, killed, injured or

missing;

- (4) Circumstances surrounding the disaster;
 - (5) Nature of disaster;
 - (6) Date of disaster;
 - (7) Exact location of disaster; and
 - (8) Information indicating whether the vessel is an actual or a total constructive loss.
- b. Attempt to collect the ship's papers and documents relating to the vessel, its cargo, and passengers and deliver them to the owners or operators. In their absence, forward them to CA/OCS/ACS.
 - c. Send a detailed follow-up report including a statement whether the ship's papers have been saved.
 - d. Protect the interests and property of U.S. citizens involved in a maritime disaster.
 - e. Advise CA/OCS/ACS when you are empowered to assume jurisdiction over a salvaged vessel or cargo and that you require instructions from the owners as to action to be taken. If owners of the vessel, cargo or effects are unknown, submit a complete report to CA/OCS/ACS requesting instructions or authorization to dispose of effects by procedures established for the disposition of effects of deceased U.S. citizens.
 - f. If the captain or owner of the vessel, cargo, or effects is present and capable of taking possession, or if there is a salvage claim attached to the property, you cannot assume jurisdiction.
 - g. Advise CA/OCS/L when consular jurisdiction rights granted by treaty or acquired by established usage are denied. Contact us for guidance at ASK-OCS-L@state.gov. CA/OCS/L will coordinate with CA/OCS/ACS, the Office of the Legal Adviser and other appropriate Department offices.

7 FAM 783 SEARCH AND RESCUE – U.S. AUTHORITIES

(CT:CON-113; 10-04-2005)

The U.S. Coast Guard Rescue Coordination Centers (RCC) has 24-hour live watches and can provide a point of contact for your specific area.

Selected Links ...

- U.S.C.G. 24 Hour Rescue Coordination Centers
- National Transportation Safety Board Marine Investigations

7 FAM 784 SEARCH AND RESCUE AND RECOVERY – FOREIGN AUTHORITIES

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- a. The foreign sovereign will likely exercise port state control for marine casualties occurring in their internal waters, ports, harbors, territorial sea, and exclusive economic zone. The port state may board and detain the vessel to conduct an investigation, particularly if the casualty involves loss of life, obstruction of a navigable waterway, or environmental pollution. You may not have access to the vessel, cargo and personal effects until the investigation and possible legal action are concluded.
- b. Become familiar with all pertinent conventions and treaties in force between the United States and the host country or the custom of the host country regarding consular jurisdiction covering wrecked or stranded U.S. vessels and their cargoes and effects. See Treaties in Force.
- c. Establish contacts with appropriate officials in the foreign government. Be familiar with their search and rescue procedures.

For example ...

New Zealand – How to Create a Marine Disaster Plan

Canadian Coast Guard Search and Rescue

7 FAM 785 WHAT IS THE EFFECT OF LOCAL COURT JURISDICTION?

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- a. When a local court assumes jurisdiction, you must be satisfied that the court is competent to adjudicate the claim and that U.S. interests are being accorded fair treatment. If not, report any inconsistencies to CA/OCS/ACS.
- b. In the absence of the party of interest, you may take possession of any effects or monies remaining after settlement of a salvage claim provided the tribunal will permit their delivery to a consular officer. Consult CA/OCS/ACS for guidance before taking possession of property. See 7 FAM 600 and 7 FAM 200.
- c. Submit a complete report to CA/OCS/ACS requesting further instructions regarding the disposition of the effects or authorization to dispose of effects by procedures established for the disposition of effects of a deceased U.S. citizen.

7 FAM 786 THROUGH 789 UNASSIGNED